



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

August 26, 2022

Dan DeBoer
Site Vice President - St. Lucie
Florida Power & Light Company
6501 S Ocean Dr
Jensen Beach, FL 34957

SUBJECT: TRANSMITTAL OF THE NATIONAL MARINE FISHERIES SERVICE'S
AUGUST 8, 2022, BIOLOGICAL OPINION SERO-2019-03494 FOR
CONTINUED OPERATION OF ST. LUCIE PLANT, UNIT NOS. 1 AND 2

Dear Dan DeBoer:

On August 8, 2022, the National Marine Fisheries Service (NMFS) issued a new biological opinion concerning the continued operation of St. Lucie Plant, Unit Nos. 1 and 2 (St. Lucie). The new biological opinion is enclosed and is publicly available at Agencywide Documents Access and Management System Accession (ADAMS) No. [ML22227A053](#).

On November 18, 2019, the U.S. Nuclear Regulatory Commission (NRC) requested to reinstate consultation with NMFS under Section 7 of the Endangered Species Act of 1973, as amended (ESA) ([ML19289A401](#)). The NRC sought reinstated consultation because Florida Power & Light Company (FPL) had met or exceeded at St. Lucie the annual incidental take limits of smalltooth sawfish (*Pristis pectinata*) non-lethal captures, green sea turtle (*Chelonia mydas*) causal mortalities, and Kemp's ridley sea turtle (*Lepidochelys kempii*) non-lethal captures specified in the incidental take statement (ITS) of the NMFS's March 24, 2016, biological opinion ([ML16084A616](#)). Additionally, the NRC sought reinstated consultation to address a Reasonable and Prudent Measure (RPM) and its implementing Terms and Conditions (T&Cs) in the NMFS's 2016 opinion that required FPL to design, test, construct, and implement excluder devices on St. Lucie's intake pipe velocity caps to prevent adult sea turtles from becoming entrained into the intake canal. During FPL's testing of such excluder devices, a loggerhead sea turtle (*Caretta caretta*) "failed" the test by becoming wedged in the test excluder device grating. The NMFS instructed FPL to suspend further testing until the NRC and the NMFS had reviewed available test results and could discuss and agree upon next steps. The NRC's reinstatement request proposed an alternative to the excluder devices.¹

During consultation, in November 2020, FPL notified the NRC and NMFS that it had captured two giant manta rays (*Mobula birostris*), a federally threatened species, in the St. Lucie intake canal. Both animals were alive, and FPL personnel released them back to the ocean unharmed. Following discussions among FPL, the NRC, and NMFS, the agencies incorporated this species into the reinstated consultation.

¹ The NRC also requested to reinstate consultation in February 2018 ([ML18029A143](#)) and in April 2019 ([ML19107A156](#)). The NMFS did not issue new biological opinions as a result of either consultation. Further consultation history is available in the "Background" section of the NRC's November 18, 2019, letter to the NMFS ([ML19289A401](#)).

As a result of the reinitiated consultation, NMFS issued the enclosed biological opinion. Notably, the new opinion:

- revises the amount or extent of take of sea turtles and smalltooth sawfish
- evaluates the giant manta ray and allows for take of this species
- establishes new RPMs and T&Cs

Of note, RPM 1, “Minimize Entrainment into the SLNPP [St. Lucie] Intake Canal,” states, in part, that

[T]he NRC must ensure FPL designs, tests, constructs, and implements a deterrent(s) at the 3 intake structures that will reduce the number of sea turtles entering the SLNPP [St. Lucie] intake canal.

Unlike the excluder devices specified in NMFS’s 2016 biological opinion, these deterrents do not have to physically exclude sea turtles to meet the requirement of the RPM. For instance, on page 102 of its opinion, NMFS cites two studies that achieved a reduction in sea turtle bycatch by using gillnets illuminated with green LED and UV LED lights.

The enclosed biological opinion includes four T&Cs implementing RPM 1, within which NMFS specifies the following success criteria and timeline for implementing the deterrent(s) required by RPM 1.

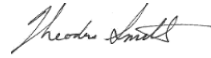
- The deterrent(s) must be designed to result in at least a 40 percent reduction of protected species take in any three-year reporting period (T&C 1 of RPM 1).
- Deterrent testing must consist of two phases. Phase 1 testing must begin within one year of the date of the opinion (i.e., August 8, 2022) and must be completed within one year of the start date of testing (T&C 1 of RPM 1).
- Phase 2 testing must take place at the intake structures and must begin within two years of the completion of Phase 1 and must be completed within one year of the start date of testing (T&C 2 of RPM 2).
- Following testing, deterrent(s) that meet the success criteria must be operational by January 1, 2028 (T&C 3 of RPM 1).

Section 9.3, “Reasonable and Prudent Measures,” and Section 9.3.1, “Terms and Conditions,” of the biological opinion include additional specifications, as well as reporting requirements, animal handling protocol, and other requirements. Section 9.1, “Amount or Extent of Take,” specifies new incidental take limits for sea turtles, smalltooth sawfish, and giant manta rays through 2043.

Section 4.2, “Terrestrial/Aquatic Issues,” of Appendix B, Environmental Protection Plan (Non-Radiological), to each of the St. Lucie renewed facility operating licenses requires FPL to “adhere to the specific requirements within the ITS in the currently applicable Biological Opinion.” With this letter, the NRC affirms that the currently applicable biological opinion for St. Lucie is the August 8, 2022, biological opinion. FPL does not need to take any action for this change to apply.

Should you need to discuss the information in this letter, or any other matters related to ESA Section 7 consultation for St. Lucie, please contact Ms. Briana Arlene, NRC Conservation Biologist and ESA Section 7 Coordinator, at 301-415-1042 or via email at briana.arlene@nrc.gov.

Sincerely,



Signed by Smith, Theodore
on 08/26/22

Theodore Smith, Chief
Environmental Review License Renewal Branch
Division of Rulemaking, Environmental
and Financial Support
Office of Nuclear Material Safety
and Safeguards

Docket Nos. 50-335 and 50-389

Enclosure:
Biological Opinion

cc: Listserv

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**ADAMS Accession Nos.: Package: ML22227A120, Letter: ML22227A119,
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